



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department • Building Department • Code Enforcement

707/263-2221 • FAX 707/263-2225

Scott De Leon

Community Development Director

Tocarra Nicole Thomas

Deputy Community Development Director

Item 2
9:10 AM
April 8, 2021

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Thomas, Community Development Deputy Director

Prepared by: Eric Porter, Associate Planner

DATE: April 8, 2021

RE: **CUA Enterprises**

- **Major Use Permit (UP 19-40)**
- **Initial Study (IS 19-59)**
- **Early Activation (EA 19-65)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Conditions of Approval
5. Site Plans
6. Initial Study

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for commercial cannabis cultivation to allow a total of 104,840 square feet of cultivation area and an estimated 100,000 sq. ft. of canopy area on a property located at 25252, 25322, 25372 and 25312 Jerusalem Grade Road (parcel size ± 77.04 acres) Middletown, California, APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31. The applicant's proposal will include the following:

Three (3): A – Type 3: “Outdoor” License: Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.

- *The total proposed cultivation canopy is approximately 104,840 square feet. (3 acres) and will be cultivated in above ground pots (known as smart pots).*

One (1): A – Type 13 “Self Distribution License”

The Project Property is currently accessed by a shared private gravel driveway off of Jerusalem Grade. It is notable that the entire property is surrounded by BLM land, and BLM has submitted a letter stating that they would not guarantee that this project might not be subject to criminal prosecution, since cannabis is still a Schedule 1 narcotic at the Federal level. *Please see Attachment 3, letter from the BLM.*

The proposed canopy area will be surrounded by a 6-foot tall galvanized woven wire fences, covered with privacy mesh to screen from public view.

The proposed ancillary facilities include:

- One (1) 8' x 20' harvest storage shed;
- One (1) 10' x 12' wooden security shed;
- One (1) 120 square foot pesticides, agricultural chemical storage shed; and
- Four (4) 8,000-gallon water storage tanks.

The proposed cultivation method will be an organic soilless growing with micro-spray drip irrigation systems. Additionally, agricultural chemicals associated with cannabis cultivation including fertilizers, pesticides, and petroleum products will be securely stored inside the proposed pesticides and agricultural chemical storage shed.

The parcels are located at the base of Bishop Mountain in eastern Lake County and lie within the Upper Putah Creek watershed (HUC10) and the Hunting Creek sub-watershed (HUC12).

Multiple ephemeral Class III watercourses begin on the Project Property and flow northeast into Jericho Creek. The cannabis cultivation area will be setback more than 100 feet from the top of the bank of any bodies of water. There are no other surface water bodies on the Project property.

The proposed cultivation operation will utilize drip irrigation systems, to conserve water resources. All water for the cultivation operation will come from two existing onsite groundwater wells and the project site has been enrolled for coverage under the State Water Resources Control Board.

The well on site will be pumped to the water storage tanks proposed right next to the proposed canopy area. Water use is projected to be approximately 10,000 gallons per day, 75,000 gallons per year. The cultivation area is relatively flat with 5 % to 15% slopes. A native grass seed mixture and certified weed-free straw mulch is proposed around the exposed soil area every year before eastern portion of the cultivation area to filter sediment from stormwater as it moves on to the property's seasonal drainages.

The natural existing vegetated buffer will be maintained as needed between all project areas and waterways on the property. All organic waste will be placed in the designated composting area within the cultivation area.

The proposed project site is accessed from a private easement road (Jerusalem Grade Road beyond the Putah Creek Bridge) that is not compliant with Public Resource Code sections 4290 and 4291. The easement road connects to Jerusalem Grade Road, a county maintained road to the west of the bridge over Putah Creek. The applicant has indicated that the access road will be graveled to support a 75,000 lb load as well as be a minimum of 20 feet wide and have a 60 feet by 20 feet hammerhead turnaround at the terminus.

A minimal increase in traffic is anticipated due to construction, maintenance and weekly and/or monthly incoming and outgoing deliveries through the use of small vehicles only. Daily employee trips are anticipated to be between 8 and 12 trips during cultivation season from April 1st to November 15th.

CONSTRUCTION

According to the applicant, the following is in regards to the site preparation and construction:

- Less than fifty (50) cubic yards of grading will be anticipated for the proposed cultivation operation.
- Materials and equipment will only be staged on previously disturbed areas (existing roads, parking and work areas). No areas will be disturbed for the purpose of staging materials or equipment.
- Any drivers will be instructed to drive slowly for safety and keep down dust to mitigate the generation of dust during construction.
- All construction activities, including engine warm-up, will be limited to Monday through Saturday between the hours of 8:00am and 7:00pm.
- All equipment will be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. All equipment will only be refueled in locations more than 100 feet from surface water bodies, and any servicing of equipment will occur on an impermeable surface. In the event of a spill or leak, the contaminated soil will be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
- Estimated construction period is 2 weeks and could generate a maximum of 40 to 80 vehicle trips, in addition to the 4 to 8 vehicle trips generated by employees

Staff is recommending approval of Major Use Permit, UP 19-40.

II. PROJECT DESCRIPTION

Applicant/Owner: CUA Enterprises

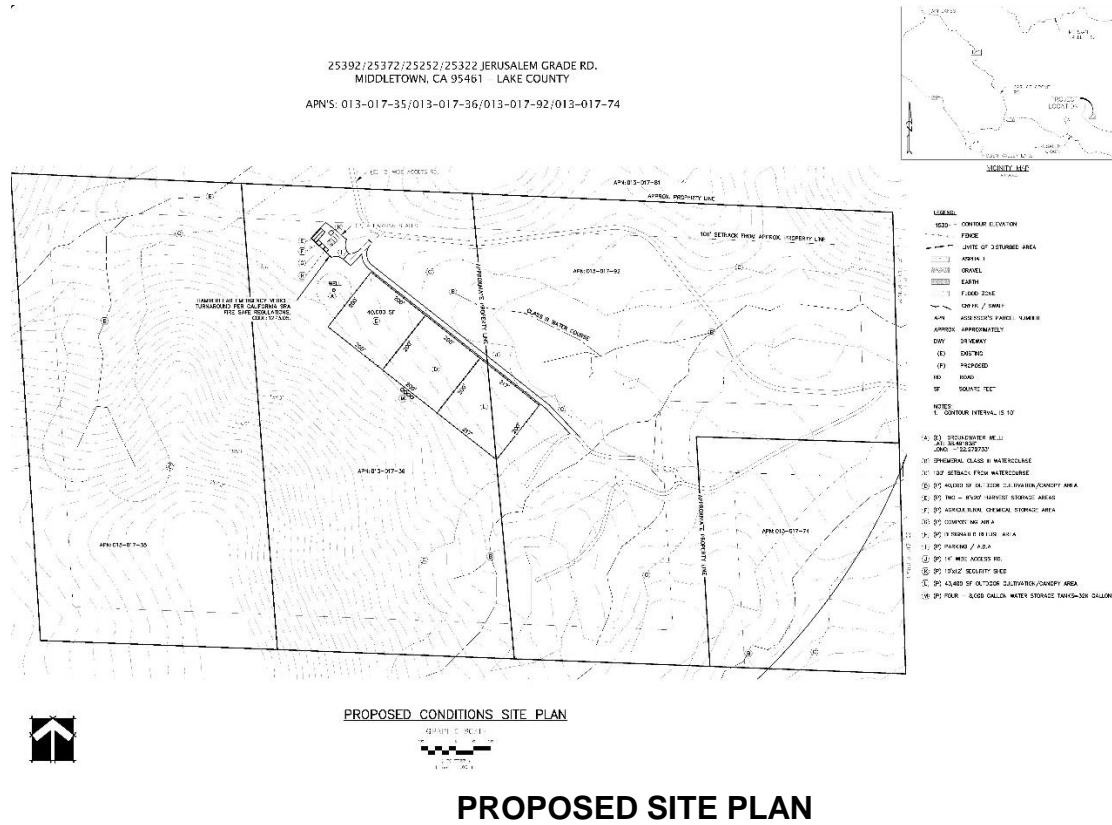
Location: 25252, 25322, 25372 & 25312 Jerusalem Grade Road, Middletown

A.P.N.s: 013-017-92, 013-017-74, 013-017-36 and 013-017-31

Parcel Size: ±77.04 acres

General Plan: Rural Lands – Resource Conservation

Zoning: “RL-WW”: Rural Lands – Waterway
Flood Zone: “D”: Areas of undetermined flood hazard.
Submittal Date: October 19, 2019



III. **PROJECT SETTING**

Existing Uses and Improvements: Existing development consists of a pre-existing pole-barn that is approximately 3,200 square feet.

Surrounding Uses and Zoning

- North: “RL-O” Rural Lands – Open Space (BLM Land). Parcel sizes range from approximately 10.14 acres to 605.71 acres in size.
- South: “O” Open Space (BLM Land). Parcel size is approximately 605.71 acres in size.
- West: “RL” Rural Lands. Parcel sizes is approximately 20.67 acres in size.
- East: “RL” Rural Land. Parcel size is approximately 8.77 acres in size.

The project parcel is not within a Community Growth Boundary.

Pursuant to Article 27 of the Lake County Zoning Ordinance, the minimum setback requirement from “O” Open Space Land Use Designation is 1,000 feet. However, on August 4th, 2020, the Board of Supervisors adopted Ordinance 3096 regarding Public Lands and Commercial Cannabis Cultivation. According to the above referenced ordinance, public lands is defined as, “Public Lands, where, because of development or other actions, it is clear that the public is invited to use such locations as places of recreation and other destination activities, and camping. Additionally, all State and County parks are public lands.” The adjacent property is zoned “O” Open Space but does not qualify for the minimum 1,000 foot setback due to the vacancy of the land.

The Project parcel is not within a Community Growth Boundary.

Topography: Cultivation area has a slope of less than 10%, however the reaming area of the parcel has a slope greater than 30%.

Soils: The project area contains the following soil types:

- Skyhigh-Asbill complex, 8 to 15 percent slopes (Type 207) which is shallow and somewhat excessively drained; Okiota-Henneke Complex (Type 192) 5% to 30% percent slopes, which are shallow and well drained.

Water Supply: Existing Well

Sewage Disposal: On-site septic system.

Fire Protection: South Lake Protection District

Vegetation: Minimal; parcel was damaged in 2015 Jerusalem Fire

Water Courses: Several unnamed seasonal streams

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands and Resource Conservation. The following General Plan policies relate to site development in the context of this proposal:

Rural Lands allows for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields.

Resource Conservation is to assure the maintenance or sustained generation of natural resources within the County. The highest priority for these lands is to provide for the management of the County's natural infrastructure. This management should include, but not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. These lands provide important ground water recharge capability which is critical to the maintenance of the ecosystem.

The following General Plan policies relate to site development in the context of this proposal:

Land Use

Goal LU-1: is to encourage the overall economic and social growth of the County while maintaining its quality of life standards.

- Policy LU-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands land Use Designation upon securing a Minor/Major Use Permit.

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on type of operation and chemicals used for spraying.

In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the County requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 875 feet from south from the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest youth-oriented facility is located approximately five (5) miles southwest from the cultivation site.

Goal LU-6: *“To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents”.*

- **Policy LU 6.1:** *“The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services and commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments, and the developments of geothermal resources”.*

The proposed Commercial Cannabis Operation, would create diversity within the local economy, and create future employment opportunities for local residents. According to the applicant’s application there is total of four (4) employees proposed. The number of employees can increase or decrease depending on the stage of the cultivation season.

Middletown Area Plan Conformance

The subject site is within the Middletown Area Plan’s boundary. The Plan contains several policies that are subject to consistency review as follows:

Objective 5.1.1 Encourage comprehensive economic development that includes a high level of community participation to the long range benefit of the Planning Area with a balanced and diverse mix of commercial, manufacturing, residential, tourism and agriculture.

Policy 5.1.1.a Economic development proposals should involve a high level of community participation.

Response: Although commercial cannabis cultivation is not a traditional economic development activity, this proposed project will employ up to five employees who will spend money in Lake County. This proposal required public notices to be sent out to neighboring property owners within 725 feet of the outer property line of the subject sites, and participation in the public hearing process is highly encouraged.

Policy 5.1.4b Make agriculture more economically viable by encouraging the development of value-added agricultural industries that support tourism and maintaining sites in agricultural production, as long as the agricultural tourism uses do not negatively impact on-going agricultural operations on adjacent lands.

Response: The project site is in an area that already has a number of cannabis cultivation permits either approved or pending. There are no traditional agricultural sites in close proximity with this project site that would otherwise be in conflict with this project proposal.

Objective 5.1.5 Encourage comprehensive economic development efforts for the long-term benefit of the Planning Area aimed at increasing local employment opportunities

Policy 5.1.5b Priority should be given to providing service and employment opportunities locally.

Response: As previously stated, this project will employ up to five persons during harvest season. Those persons will spend money locally, and will likely be hired from local areas. Further, commercial cannabis will support other primarily local retail outlets that sell commercial cannabis products, further enhancing economic vitality within Lake County.

The Community Development Department has performed an environmental analysis (Initial Study) on the proposed use and has incorporated mitigation measures to reduce potential environmental impacts to less than significant. These mitigation measure include but are not limited to Erosion Control and Sediment Plans using Best Management Practices, and the protection of Archaeological and Historical Resources.

Zoning Ordinance Conformance

Article 3 – Waterway Combining District (WW)

A creek traverses through the parcel on the northern portion. Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the minimum setback for intermittent waterways shall be thirty (30) feet from the top of bank. According to the applicant's Site Plans and Property Management Plans all cultivation activities and development shall maintain a minimum of 100 ft. setback from the top of bank.

Article 7 – Rural Lands (RL)

The Cultivation of Commercial Cannabis is permitted in the "RL" Rural Lands Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On March 1, 2019, the applicant submitted an application for a Major Use Permit, UP 19-07 for the Cultivation of Commercial Cannabis to the Community Development Department.

Article 27 - Use Permits the purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of a zoning permits, minor or major use permits in addition to any required building, grading and/or health permits.

Development Standards, General Requirements and Restrictions. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance.

Development Standards

- Minimum Lot Size (20 acres per A-Type 3 license): *Complies, the lot is ±77.04 acres in size. The applicant needs 60 acres for three (3) A – Type 3 licenses.*

- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 875 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 10,000 sq. ft.): *Complies; the proposed canopy area would be about 104-840 sq. ft. of outdoor cultivation area and an estimated 85,000 sq. ft. of canopy area for three (3) A – Type 3 licenses.*

General Requirements. There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

The applicant meets the General Requirements outlined in Section 27 of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to ensure compliance.

The applicant has also submitted a Property Management Plan, outlining compliance with all regulations pertaining to cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in Article 27, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-59; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **11/03/2020 to 12/08/2020**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated March 5, 2020 which concluded that no cultural resources were within the project boundaries. All local tribes were notified of this project. Middletown Rancheria indicated that the site was within their tribal land, but that the Tribe is comfortable with the project moving forward.

The Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources/Tribal Cultural Resources, Geology/Soils, Noise and Wildfire. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level.

Aesthetics

The project has some potential to result in short- and long-term aesthetic impacts if any outdoor lighting is contemplated. All potential light-related impacts have been reduced to less than significant with the incorporated mitigation measure below:

- AES-1: Prior to operation, the applicant shall submit a Lighting Plan to the Community Development Department for review and approval. Said plan shall be consistent with all recommendations on the website: www.darksky.org and provisions of section 21.41.8 of the Zoning Ordinance.

Air Quality

The project has some potential to result in short- and long-term air quality impacts. It is likely that some dust and fumes may be released as a result of site preparation / construction of the building pads and the cultivation area. Some vehicular traffic, including small delivery vehicles would be contributors during and after site preparation / construction; trips generated by the use will be minimal, estimated at 4 to 8 average daily trips. Odors generated by the plants, particularly during harvest season, will need to be mitigated either through passive means (separation distance), or active means (Odor Control Plan), which is required prior to cultivation occurring. All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- AQ-1: All Mobile diesel equipment used for construction and/or maintenance shall be compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.
- AQ-2: Construction and/or work practices that involve pavement, masonry, sand, gravel, grading, and other activities shall be managed by adequate dust control to mitigate airborne emission during and after site development.
- AQ-3: If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan shall be required. Any parcel with Serpentine soils must obtain proper approvals from Lake County Air Quality Management District.
- AQ-4: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-5: The applicant shall have the primary access and parking areas surfaced with chip seal as a temporary measure, and asphalt or an equivalent all weather surfacing for long term occupancy to reduce fugitive dust generation. All areas subject to semi-truck/ trailer traffic shall require asphaltic concrete paving or equivalent to prevent fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.
- AQ-6: All areas subject infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly maintain and require palliative treatment at the graveled area to reduce fugitive dust generations.

Biological Resources

The applicant provided a Biological Assessment covering the project site, which was prepared by Wiemeyer Ecological Sciences (2020). The subject site was extensively burned during the 2015 Valley Fire. Mitigation measures were recommended pertaining to reforestation the parent parcel in the vicinity of the cannabis cultivation area. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **BIO-1:** A qualified biologist shall perform a pre-construction survey for nesting birds within 48 hours prior to tree removal and/or ground breaking at the site if construction activities will take place between February 1 and August 31. If nesting birds are found, the qualified biologist shall establish suitable buffers prior to tree removal and/or ground breaking activities. To prevent encroachment, the established buffer(s) shall be clearly marked by highly visibility material. The established buffer(s) shall remain in effect until the young have fledged or the nest has been abandoned as confirmed by the qualified biologist. To more effectively identify active nests and to facilitate project scheduling, it is recommended that initial nesting surveys begin as early as February when the foliage on the trees are at a minimum and the nest building activity is high.
- **BIO-2:** The pruning or removal of living trees or snags must not occur during the maternity season between April 1 and September 1 to minimize the disturbance of young that may be present and unable to fly.
- **BIO-3:** The pruning or removal of living trees or snags must occur between the hours of 12 pm and sunset on days after nights when low temperatures were 50° For warmer to minimize impacting bats that may be present in deep torpor. Sunset times shall be obtained from http://aa.usno.navy.mil/data/docs/RS_OneDay.php and temperatures for prior-work nights shall be obtained from <http://www.wunderground.com/history/>.
- **BIO-4:** When it is necessary to perform crown reduction on trees over 12 inches in diameter breast height or remove entire trees or branches over six inches in diameter there shall be preliminary pruning of small branches less than 2 inches in diameter performed the day before. The purpose of this is to minimize the probability that bats would choose to roost in those trees the night before the work is performed.
- **BIO-5:** A qualified biologist shall perform a pre-construction survey for foothill yellow- legged frogs 300 feet from the edge of the seasonal drainage within 48 hours prior to ground breaking at the site. If foothill yellow-legged frogs are found, the qualified biologist should establish suitable buffers and/or relocation of individuals prior to initiation of construction activities.
- **BIO-6:** The planting of blue oak and foothill pine trees at a 3:1 mitigation ratio shall be performed at the site to mitigate for the loss of blue oak trees over 6 inch

diameter breast height at the site. All tree replacement shall be monitored and maintained for life of the project.

- **BIO-7:** Habitat mitigation and or/conservation for the loss of chaparral habitat as a result of the proposed project shall be performed at the site. Prior to operation, this shall either consist of the restoration of chaparral habitat at the site or the conservation of chaparral habitat at the site in the form of a conservation easement or deed restriction.
- **BIO-8:** Due to an early season botanical survey not performed at the site. Prior to vegetation clearance, ground disturbing activities, or operation of the project (whichever comes first), protocol-level botanical survey shall to be performed in the early spring to ensure that all special-status plant species with the potential to occur at the site were surveyed during the appropriate bloom time. A separate report of findings shall be prepared or the biological assessment shall be updated to include the results of the early season special-status plant species survey. The results of this survey shall be submitted to the Community Development Department prior to operation of the project.

Cultural Resources

A Cultural Resources Evaluation was conducted for the subject parcel involved with this proposal by Wolf Creek Archeology dated July 15, 2019. This survey yielded no specific results that would otherwise indicate that this is a site of tribal significance. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **CUL-1:** Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the local overseeing Tribe(s) shall be notified, and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98 and with California Health and Safety Code section 7050.5.
- **CUL-2:** All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the local overseeing Tribe(s) shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

Geology and Soils

The activities associated with project development may have the potential result in erosion and loss of top soils. Therefore, with the incorporated mitigation measures below, all potential impacts have been reduced to less than significant.

- **GEO-1:** Prior to any ground disturbance, the permitted shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval. Said Erosion Control and Sediment Plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with the Grading Ordinance. Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. No silt, sediment or other materials exceeding natural background levels shall be allowed to flow from the project area. All BMP's shall be maintained for life of the project.
- **GEO-2:** Prior to any ground disturbance, the permit holder shall submit and obtain a Grading Permit from the Community Development. The project design shall incorporate appropriate BMPs consistent with County and State Storm Water Drainage Regulations to the maximum extent practicable. The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapters 29 and 30 of the Lake County Code.
- **GEO-3:** Excavation, filling, vegetation clearing or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Director. The actual dates of this defined grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director.
- **GEO-4:** The permit holder shall monitor the site during the rainy season (October 15 -May 15), including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed.

Hazards and Hazardous Materials

The project has some potential to have an adverse impact related to hazards and hazardous materials, The following mitigation measures are added to reduce potential impacts to 'less than significant' levels regarding hazards and hazardous materials:

- **HAZ-1:** All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
- **HAZ-2:** The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak onto the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.

- HAZ-3: Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
- HAZ-4: The storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.
- HAZ-5: The project design shall incorporate appropriate BMPs consistent with County and State Storm Water Drainage regulations to prevent or reduce discharge of all construction or post-construction pollutants and hazardous materials offsite or into the creek. The site shall be monitored during the rainy season (October 15-April 15) and erosion controls maintained.

Hydrology and Water Quality

This project has some potential to impact water quality and quantity. The following mitigation measures are added to reduce hydrology and water quality impacts to 'less than significant' levels:

- HYD-1: The applicant shall adhere to all Federal, State and Local regulations regarding wastewater treatment and water usage requirements.
- HYD-2: Prior to this permit having any force or effect, the permittee(s) shall adhere to the Lake County Division of Environmental Health requirements regarding on-site wastewater treatment and/or potable water requirements. The permittee shall contact the Lake County Division of Environmental Health for details.
- HYD-3: The applicant shall prepare a groundwater management plan to ensure that the groundwater resources of the County are protected used and managed in a sustainable manner. The plan would support the Integrated Regional Water Management Plan and include an inventory of groundwater resources in the County and a management strategy to maintain the resource for the reasonable and beneficial use of the people and agencies of the County.
- HYD-4: The production well shall have a meter to measure the amount of water pumped. The production wells shall have continuous water level monitors. The methodology of the monitoring program shall be described. A monitoring well of equal depth within the cone of influence of the production well may be substituted for the water level monitoring of the production well. The monitoring wells shall be constructed and monitoring begun at least three months prior to the use of the supply well. An applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually and/or upon made upon request.

Noise

Short-term increases in ambient noise levels can be expected during project grading and/or construction, although the amount of site preparation for this proposal is minimal at best. The following mitigations have been implemented to reduce the potential impacts to less than significant:

- NOI-1: All construction activities including engine warm-up shall be limited to Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- NOI-3: The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Major Use Permit (LCZO Section 51.4, Major Use Permits) if all of the following findings are made:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

Response: The proposed use of Commercial Cannabis Cultivation Operation is a permitted use in the "RL" Rural Lands zoning upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the subject property complies with the minimum setbacks from public lands as the adjacent property does not qualify under the definitions of public lands. Therefore, the project does not need to meet the minimum 1,000 foot setback from public lands. Additionally, the Community Development Department would conduct Annual Compliance Monitoring Inspections during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

Response: The project consists of 104,840 square feet of cultivation area for outdoor cultivation to occur in above-ground pots and a Type 13 Self Distribution license to legally

transport plants onto and off of the site. The Lake County Zoning Ordinance allows type 3 cultivation operations on Rural Lands-zoned land, and the subject site is ±77.04 acres in size combined, large enough to enable the licenses proposed.

3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

Response: The site is served by a private roadway off of Jerusalem Grade Road. The Building Division determined that the project is exempt from Public Resources Code 4290/4291 road standards as the operation is an all outdoor operation that is not proposing buildings that require building permits. Therefore, the access road is adequate to accommodate the specific proposed use.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

Response: There are adequate public utilities and services available to the site. This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Environmental Health, and PG&E, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. No adverse comments were received.

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

Response: The cultivation of commercial cannabis is a permitted use within the RL zoning district upon securing a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the Lake County General Plan does not have any provisions specifically for commercial cannabis, but both documents have provisions for economic development and land use compatibility. Additionally, the subject property complies with the minimum setbacks from public lands as the adjacent property does not qualify under the definitions of public lands. Therefore, the project does not need to meet the minimum 1,000 foot setback from public lands.

6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.

Response: There are no violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code on this property.

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Use Permit:

1. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.

Response: The purpose of this report is to evaluate the levels of compliance with the standards and criteria found in Article 27, section 1.i, as well as other portions of the Zoning Ordinance, General Plan and applicable Area Plan.

2. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).

Response: The applicant has passed 'live scan', and is the owner of the property. The applicant is qualified to make this application.

3. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Response: The application was submitted and determined to be complete after a thorough review to verify that all submittal requirements were met.

VII. RECOMMENDATION

Staff recommends the Planning Commission take the following actions.

A. Adopt Mitigated Negative Declaration (IS 19-59) for Major Use Permit (UP 19-40) with the following findings:

1. Potential impacts to aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 and AES-2.
2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5 and AQ-6.
3. Potential environmental impacts related to cultural and tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
4. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, BIO-6, BIO-7 and BIO-8.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, GEO-3 and GEO-4.
6. Potential impacts regarding hazards and hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1, HAZ-2, HAZ-3, HAZ-4 and HAZ-5.
7. Potential impacts related to hydrology and water quality can be mitigated to less than significant impacts with the inclusion of mitigation measures HYD-1, HYD-2, HYD-3 and HYD-4

8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.
11. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve Major Use Permit UP 19-40 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Lower Lake Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Sample Motions:

Mitigated Negative Declaration (IS 19-59)

I move that the Planning Commission find that the Major Use Permit (UP 19-40) applied for by **CUA Enterprises** on property located at **25252, 25322, 25372 and 25312 Jerusalem Grade Road, Middletown**, and further described as **APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **April 8, 2021**.

Major Use Permit (UP 19-40)

I move that the Planning Commission find that the **Major Use Permit (UP 19-40)** applied for by **CUA Enterprises** on property located at **25252, 25322, 25372 and 25312 Jerusalem Grade Road, Middletown**, further described as **APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31** does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **April 8, 2021**.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.